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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,737	08/10/2001	Fumio Tokutomi	212734US2	6661

22850 7590 04/03/2007
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
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ALEXANDRIA, VA 22314

EXAMINER

POON, KING Y

ART UNIT PAPER NUMBER

2625

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	04/03/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/03/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/925,737

Applicant(s)

TOKUTOMI ET AL.

Examiner

King Y. Poon

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,7,8,11,13,15,18,20,23,26,29,32 and 34-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,7,8,11,13,15,18,20,23,26,29,32 and 34-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. Claims 36, 37, while defining computer program, does not define a "computer-readable medium" and is thus non-statutory for that reasons. A computer program can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending the claim to embody the program on "computer-readable medium" in order to make the claim statutory.

"In contrast, a claimed computer-readable medium encoded with the data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory." - MPEP 2106.IV.B.1(a)

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3, 7, 8, 11, 13, 15, 18, 20, 23, 29, 32, 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward et al (US 6,798,997) in view of Vallabh (US 7,054,832).

Regarding claim 3: Hayward et al. (US 6 798 997) teach a print apparatus consumable purchase system (column 1, lines 8-16) comprising: a print apparatus

Art Unit: 2625

(column 4, line 10 & fig 2, peripheral 10) for printing on a print medium, a display capable of displaying information concerning the print apparatus (fig. 3 & column 5, lines 24-39, display screen for print apparatus purchase system displays information concerning the peripheral 10); and a controller for displaying a status screen (figs 3 & 4, & column 5, lines 23-24 & 62-63, a display screen is used to display screen associated with the status of the peripheral 10) for representing consumption degree of a consumable used with the print apparatus on the display (fig 3 & column 5, lines 23-39, the display includes an "X" indicator to indicate a status condition in peripheral 10, wherein, column 5, lines 6-7, status conditions in peripheral 10 indicate a need for consumable replacement, which, column 8, lines 26-31, is based off of consumable level. In Specification, Applicant defines a consumption degree of a consumable as an "ink remaining amount." Therefore the indicator "X" taught by Hayward et al. and shown on the display in fig 3 represents an ink/toner remaining amount because it represents a low level) and displaying one (buy now, fig. 4) of a plurality of options (options to select buying from a preferred retailer, column 8, lines 60-65, options to buy now, options to have a diagnostics perform first before buying, column 7, lines 35-52, options to buy from a manufacturer, options to pay with a credit card, options for overnight express shipment, etc, column 8, lines 1-10) concerning the purchase mode (buying) of the consumable in the status screen (fig. 4), an option calling button (buy now button, column 8, lines 55-65) for calling the plurality of options concerning the purchase mode of the consumable in the status screen (column 8, lines 60-63).

NOTE: Although not specifically mentioned, a controller is inherently included in the system taught by Hayward et al. Without a controller, the functions associated with display of information as outlined above would not be available in the print apparatus consumable purchase system. Therefore the teachings of Hayward et al. inherently included a controller as outline above.

Hayward further teaches a plurality of options to be selected, by using browser display (column 7, lines 65-67), of delivery purchase option (column 8, lines 47-48) and a store purchase option (column 8, lines 60-63, retailer is well known in the art to be in the form of a store, (official notice)).

Hayward does not show the screen of ordering through delivery purchase option and through a store (retailer) and the store purchase button for acquire a screen for providing dealer information.

Vallabh, in the same area of online ordering (column 14, lines 35-40) teaches a screen of ordering options includes a delivery purchase option and a store purchase option represent by a corresponding delivery purchase button and a store purchase button (pickup, delivery, fig. 9) for acquiring a screen for providing dealer information (fig. 11, column 8, lines 24-30), and for store purchase, the customer would be able to pick up in the store to save some money or obtained the product immediately. (fig. 11, see minus in price adjustment, and immediate pickups, column 8, line 40).

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Hayward to include: a screen of ordering options includes a delivery purchase option and a store purchase option

Art Unit: 2625

represent by a corresponding delivery purchase button and a store purchase button for acquiring a screen for providing dealer information, and for store purchase, the customer would be able to pick up in the store to save some money or obtained the product immediately such that Hayward's invention would be able to be probably functioned (ordering product using a screen without a screen is impossible) and the user would be able to obtain the print cartridge immediately for urgent print job such as a student would be able to print a report, that would determined whether the student would need to retake the course again next semester or won't be able to graduate on time, at 8:am in the morning to be turned in at 11 am the same day.

Regarding claim 7: Hayward teaches when the option calling button is selected, the controller connects to a predetermined server through a network and causes a screen to be presented, the screen displaying the plurality of options from the server and displays the screen on the display options from the server and displays the screen on the display (column 7, line 54 – column 8, line 12 and column 8:lines 54-63, when BUY NOW button is selected, a connection to server 40 is made, which provides a user screen with a plurality of purchase options: preferred distributor or not preferred distributor).

Regarding claim 8, Hayward et al. (US 6 798 997) teach the print apparatus consumable purchase system as claimed in claim 3, wherein when the option calling button is selected (column 7, line 54 – column 8, line 12 and column 8:lines 54-63, when BUY NOW button is selected, a connection to server 40 is made, which provides a user screen with a plurality of purchase options: preferred distributor or not preferred

Art Unit: 2625

distributor), the controller displays the plurality of options on the display (column 8, lines 60-65) and if any option is selected from among the plurality of options, the controller connects to a predetermined server through a network and acquires a order screen to be present (column 8, lines 1-15).

Although Hayward does not mention the presented screen is corresponded to the selected option from the server, it would have been obvious to a person with ordinary skill in the art the order screen that allows user to order the parts must correspond to the user selection of whether the user want to order from the preferred retailer.

Regarding claim 11, Hayward et al. (US 6 798 997) teach the print apparatus consumable purchase system as claimed in claim 9, wherein if the delivery purchase button is selected, the controller acquires an ordering screen for ordering the consumable from a predetermined server through a network and displays the screen on the display (column 7, line 54 - column 8, line12, a purchase order screen is acquired from a predetermined server 40 and displayed to the user).

Regarding claim 13, Hayward et al. (US 6 798 997) teach the print apparatus consumable purchase system as claimed in claim 11, wherein if the delivery purchase button is selected, the controller acquires a screen to be presented, the screen containing one of a selling condition input field for entering selling condition information (column 7, line 66 - column 8, line 2, the user enters the selling conditions) and a selling condition disclosure field for disclosing selling condition information (column 8, lines 9-11, selling conditions are disclosed on the screen) as the ordering screen from a predetermined server through a network and displays the screen on the display.

Regarding claim 15, Hayward et al. (US 6 798 997) teach the print apparatus consumable purchase system as claimed in claim 13, wherein at least one of in-stock and out-of-stock concerning the consumable and availability of empty vessel collection service is disclosed in the selling condition disclosure field (column 8, lines 9-10, a confirmation display is sent to the user's display after, column 8, lines 49-53, confirming availability of inventory, which provides the in-stock disclosure).

Regarding claims 18, 20: Hayward et al. (US 6 798 997) teach the print apparatus consumable purchase system as claimed in claim 11, wherein if the delivery purchase button is selected (fig 4 & column 7, line 54, BUY NOW button), the controller acquires a screen containing a retrieval key information input field for entering user's place retrieval key information as an ordering screen for ordering the consumable from a predetermined server through a network and displays the screen on the display (column 7, line 54 - column 8, line 25, user information concerning user location address is input in ordering screen that has been downloaded from predetermined server 40 after selecting the BUY NOW button), and the controller transmits the user's place retrieval key information entered in the retrieval key information input field to the server (column 8, lines 48-49, server receives user information) so as to receive place-dependent selling condition information extracted by the server based on the user's place retrieval key information (column 8, lines 46-54, based on user information, server 40 processes the order by shipping directly to the user or forwarding the order for local delivery from a retailer local to the user. In the teachings of Hayward et al. the place-dependent selling condition is delivery method that is based on user location and that

Art Unit: 2625

changes depending on the location of the shipper in relation to the user. Along with delivery method, a confirmation differs based on user location relative to local distributors) and displays the received place-dependent selling condition information on the display (column 7, line 67 - column 8, line 12, purchase order confirmation is displayed, which would indicate confirmation of delivery method acceptance information).

Regarding claim 23, Hayward et al. (US 6 798 997) teach the print apparatus consumable purchase system as claimed in claim 11, wherein if the store purchase button is selected, the controller causes a screen to be presented for providing the dealer information from a predetermined server through a network and displays the screen on the display (column 7, line 54 - column 8, line 12 & column 8, lines 54-63, BUY NOW button, i.e. store purchase button, is selected and a display that provides dealer information is provided from a server 40 and for the user).

Regarding claims 29, 32, 34: Hayward et al. (US 6 798 997) teach print apparatus consumable purchase system as claimed in claim 11, wherein if the store purchase button is selected (fig. 4 & column 7, line 54, BUY NOW button), the controller acquires a screen containing a retrieval key information input field for entering user's place retrieval key information (column 8:lines 48- 49, server receives user information that has been input by user and displays the screen on the display (column 7, lines 60-65, purchase order screen is provided to user)), and the controller transmits the user's place retrieval key information entered in the retrieval key information input field to the server (column 8, lines 48-49, server receives user information that has been input by

Art Unit: 2625

user) so as to receive place-dependent dealer information extracted by the server based on the user's place retrieval key information (column 8, lines 46-54, based on user information, server 40 processes the order by shipping directly to the user or forwarding the order for local delivery from a retailer local to the user. In the teachings of Hayward et al. the place-dependent selling condition is delivery method that is based on user location and that changes depending on the location of the shipper in relation to the user. Along with the delivery method, a confirmation differs based on user location relative to local distributors) and displays the received place-dependent dealer information on the display (column 7, line 67 - column 8, line 12, purchase order confirmation is displayed, which would indicate confirmation of delivery method acceptance information).

Regarding claim 35, Hayward et al. teaches, wherein the consumable is a coloring material cartridge (fig 4, magenta ink level indicates that the consumable is a coloring material cartridge. Also see column 9, lines 40-42).

Regarding claims 36, 38: Hayward et al. (US 6 798 997) teach a program stored in a computer readable medium (inherent) for causing a computer to function as control means (column 4, lines 10-20, the program is installed on computer to interact with printer consumable purchasing system shown in fig 2).

Regarding claim 37, Hayward et al. teaches, wherein the consumable is a coloring material cartridge (fig 4, magenta ink level indicates that the consumable is a coloring material cartridge. Also see column 9, lines 40-42).

Art Unit: 2625

4. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward in view of Vallabh (US 7,054,832) as applied to claim 23 above, and further in view of Benjamin et al (US 6,113,208).

Regarding claim 26, Hayward et al. teach the print apparatus consumable purchase system as claimed in claim 23, but do not teach wherein the dealer information contains at least one of address information and map information for locating a dealer place.

However, Benjamin et al. teach dealer information containing an address displayed to the user (column 3, lines 42-45).

Accordingly, it would have been obvious to one skilled in the art at the time of the invention to have use the address information taught by Benjamin et al. in the provision of dealer information taught by Hayward et al. because it allows the user to locate suppliers nearby for more ordering flexibility.

Response to Arguments

5. Applicant's arguments filed 12/28/2006 have been fully considered but they are not persuasive.

With respect to applicant's argument that Hayward does not disclose a store purchase option, has been considered.

In reply: Column 8, lines 60, Hayward discloses a store purchase option (purchase from a retailer).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to King Y. Poon whose telephone number is 571-272-7440. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Coles can be reached on 571-272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 25, 2007



KING Y. POON
PRIMARY EXAMINER